

Amendment No. 1 to SB3137

Johnson
Signature of Sponsor

AMEND Senate Bill No. 3137

House Bill No. 3338*

by deleting all language after the enacting clause and by substituting instead the following:

SECTION 1. Tennessee Code Annotated, Section 45-2-2001(a), is amended by inserting the following language immediately following the first sentence of the subsection:

All individuals who control the private trust company, establish trusts or charitable organizations controlling the private trust company, or control corporations, sole proprietorships, partnerships, joint ventures, associations, trusts, estates, business trusts, limited liability companies, or other companies controlling the private trust company must be related within the tenth degree of affinity or consanguinity to the designated ancestor, or lineal descendants of the original owners of a private trust company.

SECTION 2. Tennessee Code Annotated, Section 45-2-2001(b), is amended by deleting the subsection in its entirety and by substituting instead the following:

(b) A private trust company or proposed private trust company may request in writing that it be exempted from any provision of the Banking Act or the rules thereof. The commissioner may grant the exemption in whole or in part if the commissioner finds that the private trust company does not and will not transact business with the general public. As used in this part, unless the context otherwise requires:

(1) "Designated ancestor" means an individual designated as provided in § 45-2-2002(a) for the purpose of establishing another individual's status as a family member in relation to a private trust company or a proposed private trust company. A designated ancestor may be either a living or deceased individual;

(2) "Family member" means any individual who is related within the tenth degree of affinity or consanguinity to the designated ancestor of a private trust

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company or to the original owners of a private trust company. For the purposes of this part, a family member's:

(A) Surviving spouse shall be deemed related by affinity; and

(B) Stepchild shall be deemed related by affinity and such affinity shall continue regardless of any future change in status of the stepchild's parents; and

(3) "Transact business with the general public" means any sales, solicitations, arrangements, agreements, or transactions to provide fiduciary services, whether or not for a fee, commission, or any other type of remuneration, with any client that is not a:

(A) Family member; or

(B) Sole proprietorship, partnership, joint venture association, trust, estate, business trust, corporation, limited liability company, charitable lead trust, charitable remainder trust, charitable organization or other company that is one hundred percent (100%) owned, or one hundred percent (100%) controlled by, one (1) or more family members.

SECTION 3. Tennessee Code Annotated, Section 45-2-2002(a)(1), is amended by adding the following language as a new subdivision (G):

(G) A statement under oath of the name of the individual who will be the designated ancestor of the private trust company.

SECTION 4. Tennessee Code Annotated, Section 45-2-2002(c), is amended by deleting the subsection in its entirety and by substituting instead the following:

(c) **Change of Control.**

(1) Control of an exempt private trust company may not be transferred or sold with exempt status. In any change of control, the acquiring control person must comply with this chapter, and the exempt status of the private trust company shall automatically terminate upon the effective date of the transfer. A separate application for exempt status must be filed if the acquiring person wishes to obtain or continue an exemption pursuant to this section.

(2) For the purposes of this part, a transfer of control of an exempt private trust company to a family member shall not be a change of control resulting in the termination of private trust company's exempt status regardless of whether the transfer is:

- (A) Direct or indirect;
- (B) Inter vivos; or
- (C) A result of death.

SECTION 5. This act shall take effect upon becoming a law, the public welfare requiring it.